IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2301 OF 2004

Pandurang Maruti Patil ... Petitioner

versus

Deputy Inspector General
(Prison), Western Region,
Pune, and another ... Respondents

...

Mrs. Pranali Kakade, for the Petitioner, amicus curiae.

Mr. V.B. Konde Deshmukh, A.P.P., for the Respondents.

...

CORAM : A.M.KHANWILKAR,J.

11th February 2005

P.C.:

. Heard Counsel for the parties. Rule. Rule made returnable forthwith by consent. Mr. Konde Deshmukh, A.P.P., waives service for the Respondents. As short question is involved, petition taken up for final disposal forthwith by

consent.

. The petition takes exception to the order passed by the Deputy Inspector-General of Prisons, Western Region, Pune dated 18th June 2004 rejecting request of the Petitioner for furlough leave made by the Petitioner. Three reasons have been noted in the police report on the basis of which impugned decision is arrived at. In substance, it is apprehended that if the Petitioner is released on furlough leave, he may be a threat to the witnesses. It is well-settled that furlough leave is a matter of right of any prisoner. The apprehension entertained by the witnesses as recorded by the police can be taken care of by imposing strict conditions on the Petitioner. However, to reject application as a whole, in my view, will be inappropriate and defeat the right of the prisoner, especially when the father of the prisoner has come forward to provide adequate surety for release of the Petitioner on furlough leave and there is nothing on record to suggest that the conduct of the Petitioner while in custody was objectionable in any manner.

. In the circumstances, the Petition succeeds with direction to the competent authority to allow the request of the Petitioner for being released on furlough leave as per rules on condition that the Petitioner will not enter the jurisdiction of Shahuwadi Police Station, Kolhapur, during the relevant period and the authority is satisfied about the surety offered by the Petitioner's father. Petition disposed of on the above terms.

. The Court expresses word of appreciation for the able assistance rendered by Mrs. Kakade, as amicus curiae.

(A.M.KHANWILKAR,J.)